



DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA- 2012-0032]

Commercial Driver's License: Daimler; Application for Exemption; Daimler Truck North America LLC (Daimler)

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition; granting of application for exemption.

SUMMARY: FMCSA announces its decision to grant an exemption from the commercial driver's license (CDL) requirements to Daimler Truck North America LLC (Daimler) for one commercial motor vehicle (CMV) driver, Dr Andreas Gorbach, Executive Vice President and Board of Management Member for Daimler. Dr. Gorbach holds a valid German commercial license and wants to operate CMVs in interstate or intrastate commerce to support Daimler field tests designed to meet future vehicle safety and environmental requirements. FMCSA reviewed Dr. Gorbach's commercial license records provided by Daimler and believes the requirements for a German commercial license will ensure that Dr. Gorbach's operation of a CMV under this exemption will likely achieve a level of safety equivalent to or greater than the level that would be obtained in the absence of the exemption.

DATES: The exemption is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] and expires May 12, 2028.

FOR FURTHER INFORMATION CONTACT: Ms. Bernadette Walker, Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards, FMCSA, at (202) 385-2415 or by email at bernadette.walker@dot.gov. If you have questions on viewing or submitting material to the docket, contact Dockets Operations at (202) 366-9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

Viewing Comments and Documents

To view comments, go to www.regulations.gov, insert the docket number “FMCSA-2012-0032” in the keyword box, and click “Search.” Next, sort the results by “Posted (Newer-Older),” choose the first notice listed, click “Browse Comments.”

To view documents mentioned in this notice as being available in the docket, go to www.regulations.gov, insert the docket number “FMCSA-2012-0032” in the keyword box, click “Search,” and chose the document to review.

If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in Room W12-140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue, SE, Washington, DC 20590, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366-9317 or (202) 366-9826 before visiting Dockets Operations.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315(b) to grant exemptions from certain Federal Motor Carrier Safety Regulations. FMCSA must publish a notice of each exemption request in the *Federal Register* (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation in accordance with 49 U.S.C. 31315(b)(1). The Agency’s decision must be published in

the *Federal Register* (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period (up to 5 years) and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

III. Current Regulatory Requirements

Current Regulation(s) Requirements

Under 49 CFR 383.23, no person shall operate a CMV without having taken and passed knowledge and driving skills tests for a commercial learner's permit or CDL that meet the Federal standards contained in subparts F, G, and H of 49 CFR part 383 for the CMV that person operates or expects to operate.

Applicant's Request

Daimler has applied for an exemption for Dr. Andreas Gorbach from 49 CFR 383.23, which prescribes licensing requirements for drivers operating CMVs in interstate or intrastate commerce. Dr. Gorbach is unable to obtain a CDL due to his lack of residency in the United States. The exemption would enable Dr. Andreas Gorbach to operate CMVs in interstate or intrastate commerce to support Daimler field tests designed to meet future vehicle safety and environmental requirements. Daimler requests that the exemption cover the maximum allowable duration of five years.

IV. Method to Ensure an Equivalent or Greater Level of Safety

According to Daimler, the requirements for a German commercial license ensure that the same level of safety is met or exceeded as if this driver had a CDL issued by one of the States. Daimler asserts that Dr. Gorbach will be accompanied at all times by an experienced Daimler CDL holder who is familiar with the routes to be traveled in case of any unforeseen circumstance. Additionally, Daimler provided a statement of Dr. Gorbach's driving history.

V. Public Comments

On October 17, 2022, FMCSA published notice of the Daimler application and requested public comments (87 FR 62918). The Agency received one comment in support of the application; the commenter made the following statement: “I believe that Dr. Andreas Gorbach will not cause undo harm to other[s] if allowed to drive with his German CDL in the United States.”

VI. FMCSA Decision

FMCSA has determined that the process for obtaining a CDL in Germany is comparable to the process for obtaining a State-issued CDL and therefore adequately ensures that this driver can safely operate a CMV in the United States. Based on the information provided by Daimler, as described in section IV, including the driver’s experience and safety record, FMCSA concludes that the exemption, subject to the terms and conditions set forth in section VII, would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption, in accordance with 49 U.S.C. 31315(b)(1).¹

VII. Terms and Conditions for the Exemption

This exemption applies only to Daimler driver Dr. Andreas Gorbach. This driver is granted an exemption from the CDL requirement in 49 CFR 383.23 to allow him to drive CMVs in the United States without a State-issued CDL. When operating under this exemption, the driver is subject to the following terms and conditions:

(1) The driver and Daimler must comply with all other applicable provisions of the Federal Motor Carrier Safety Regulations (49 CFR parts 350-399);

¹ FMCSA has granted Daimler drivers similar exemptions: July 22, 2014 (79 FR 42626); March 27, 2015 (80 FR 16511); October 5, 2015 (80 FR 60220); December 7, 2015 (80 FR 76059); December 21, 2015 (80 FR 79410); July 12, 2016 (81 FR 45217); July 25, 2016 (81 FR 48496); August 17, 2017 (82 FR 39151); September 10, 2018 (83 FR 45742); and September 28, 2020 (85 FR 60782).

- (2) The driver must be in possession of the exemption document and a valid German commercial license;
- (3) The driver must be employed by and operate the CMV within the scope of his duties for Daimler;
- (4) At all times while operating a CMV under this exemption, the driver must be accompanied by a holder of a State-issued CDL who is familiar with the routes traveled;
- (5) Daimler must notify FMCSA in writing within 5 business days of any accident, as defined in 49 CFR 390.5, involving Dr. Gorbach;
- (6) Daimler must notify FMCSA in writing if Dr. Gorbach is convicted of an offense listed in § 383.51 or a disqualifying offense under § 391.15 of the Federal Motor Carrier Safety Regulations; and
- (7) Daimler must subject the driver to a drug and alcohol testing program substantially equivalent to the requirements in 49 CFR part 382 (excluding the Clearinghouse requirements in subpart G). Daimler must ensure that the testing program for Dr. Gorbach complies with the procedures set forth in 49 CFR part 40, as required by 49 CFR 382.105.

Preemption

In accordance with 49 U.S.C. 31315(d), as implemented by 49 CFR 381.600, during the period this exemption is in effect, no State shall enforce any law or regulation applicable to interstate commerce that conflicts with or is inconsistent with this exemption with respect to a firm or person operating under the exemption. States may, but are not required to, adopt the same exemption with respect to operations in intrastate commerce.

Notification to FMCSA

Under the exemption, Daimler must notify FMCSA within 5 business days of any positive drug or alcohol tests or test refusal, or accident (as defined in 49 CFR 390.5),

involving Dr. Andreas Gorbach while operating a CMV under the terms of this exemption. The notification about accidents must include the following information:

- a. Identifier of the Exemption: “Daimler -Dr. Gorbach;”
- b. Name of operating carrier and USDOT number;
- c. Date of the accident or date of the positive test result or refusal;
- d. City or town, and State, in which the accident occurred, or closest to the accident scene;
- e. Driver’s name and license number;
- f. Co-driver’s name (if any) and license number;
- g. Vehicle number and State license number;
- h. Number of individuals suffering physical injury;
- i. Number of fatalities;
- j. The police-reported cause of the accident, if provided by the enforcement agency;
- k. Whether the driver was cited for violation of any traffic laws, motor carrier safety regulations; and
- l. The total on-duty time accumulated during the 7 consecutive days prior to the date of the accident, and the total on-duty time and driving time in the work shift prior to the accident.

VIII. Termination

FMCSA has no reason to believe the motor carrier and driver covered by this exemption will experience any deterioration of their safety record. However, should this occur, FMCSA will take all steps necessary to protect the public interest, including revocation of the exemption. FMCSA will immediately revoke the exemption for failure to comply with its terms and conditions

Robin Hutcheson,
Administrator.

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